



Montana Fish, Wildlife & Parks

1400 South 19th Avenue
Bozeman, MT 59718

18 December 2002

To: Governor's Office, Todd O'Hair, State Capitol, Room 204, P.O. Box 200801, Helena, MT 59620-0801
Environmental Quality Council, State Capitol, Room 106, P.O. Box 201704, Helena, MT 59620-1704
Dept. of Environmental Quality, Metcalf Building, P.O. Box 200901, Helena, MT 59620-0901
Montana Fish, Wildlife & Parks:

Director's Office	Parks Division	Lands Section	FWP Commissioners
Fisheries Division	Legal Unit	Wildlife Division	Design & Construction

MT Historical Society, State Historic Preservation Office, P.O. Box 201202, Helena, MT 59620-1202
MT State Parks Association, P.O. Box 699, Billings, MT 59103
MT State Library, 1515 E. Sixth Ave., P.O. Box 201800, Helena, MT 59620
James Jensen, Montana Environmental Information Center, P.O. Box 1184, Helena, MT 59624
Janet Ellis, Montana Audubon Council, P.O. Box 595, Helena, MT 59624
George Ochenski, P.O. Box 689, Helena, MT 59624
Gallatin Cty Commissioners, Gallatin Cty Courthouse, 311 W. Main, Room 301, Bozeman MT 59715
Jerry DiMarco, P.O. Box 1571, Bozeman, MT 59771
Montana Wildlife Federation, P.O. Box 1175, Helena, MT 59624
Wayne Hurst, P.O. Box 728, Libby, MT 59923
Bob Raney, 112 S. 6th St., Livingston, MT 59047

Ladies and Gentlemen:

Attached to this cover letter is an Environmental Assessment (EA) pertaining to a proposal to construct a roadside zoo and menagerie along Interstate 90 on the Bozeman Pass in Gallatin County, Montana. The zoo would house up to three bears.

Montana Fish, Wildlife & Parks invites you to comment on the attached proposal. The public comment period will run from Friday, December 20, 2002 to 5:00 p.m. Monday, January 20, 2003. Comments should be sent to the following:

Montana Wildlife Education Inc. EA
c/o Jim Heck
1400 South 19th Avenue
Bozeman MT 59718

Or emailed to: jheck@montana.edu.

Sincerely,

Patrick J. Flowers
Regional Supervisor

Attachment

*Gallatin
Game Farm*



Montana Fish, Wildlife & Parks

ENVIRONMENTAL ASSESSMENT CHECKLIST

PART I. ROADSIDE MENAGERIE LICENSE APPLICATION

The department's authority to regulate zoos and menageries is contained in sections 87-4-801 through 87-4-808, MCA and ARM 12.6.1301 through 12.6.1309.

1. Name of Project: Montana Wildlife Education Inc.

Application Date: 7/3/02 (received)

2. Name, Address, and Phone Number of Applicant(s): Casey Anderson
1250 Ashment # F5
Idaho Falls ID 83402
208.220.0613

3. If Applicable:

Estimated Construction/Commencement Date: Fall 2002

Estimated Completion Date: Spring 2003

Is this an application for expansion of existing facility or is a future expansion contemplated? Future structural additions to the project are contemplated, but not expansions of land area.

4. Location Affected by Proposed Action (county, range, and township): T2S R7E N1/2 S14

5. Project Size: Estimate the number of acres that would be directly affected that are currently:

(a) Developed:
residential..... acres
industrial..... acres

(b) Open Space/Woodlands/Areas..acres

(c) Wetlands/Riparian Areas..... acres

(d) Floodplain...acres

(e) Productive:
irrigated cropland... acres
dry cropland..... acres
forestry..... acres
rangeland..... 3 acres
other..... acres

6. Map/site plan: attach a copy of the map submitted with the application (an 8 1/2" x 11" or larger section of the most recent USGS 7.5' series topographic map) showing the location and boundaries of the area that would be affected by the proposed action. A different map scale may be substituted if more appropriate or if required by agency rule. If available, a site plan should also be attached.
See Attachment 1.

7. Narrative Summary of the Proposed Action or Project including the Benefits and Purpose of the Proposed Action:
See Attachment 2

8. Listing of any other Local, State or Federal agency that has overlapping or additional jurisdiction:

(a) Permits:

<u>Agency Name</u>	<u>Permit</u>	<u>Date Filed/#</u>
U.S. Dept. of Agriculture: Animal Welfare	To be issued prior to licensing.	
Class C Exhibitor's License		

(b) Funding:

<u>Agency Name</u>	<u>Funding Amount</u>
N/A	

(c) Other Overlapping or Additional Jurisdictional Responsibilities:

<u>Agency Name</u>	<u>Type of Responsibility</u>
U.S. Dept. of Agriculture	Animal Welfare

9. List of Agencies Consulted During Preparation of the EA:

Gallatin County Planning
U.S. Department of Agriculture

PART II. ENVIRONMENTAL REVIEW

1. Evaluation of the Impacts of the Proposed Action Including Secondary and Cumulative Impacts on the Physical and Human Environment:

PHYSICAL ENVIRONMENT

1. <u>LAND RESOURCES</u>	POTENTIAL IMPACT				CAN IMPACT BE MITIGATED	COMMENT INDEX
	UNKNOWN	NONE	MINOR	SIGNIFICANT		
Will the proposed action result in:						
a. Soil instability or changes in geologic substructure?			X			See (1)
b. Disruption, displacement, erosion, compaction, moisture loss, or over-covering of soil which would reduce productivity or fertility?			X			See (1)
c. Destruction, covering or modification of any unique geologic or physical features?		X				
d. Changes in siltation, deposition or erosion patterns that may modify the channel of a river or stream or the bed or shore of a lake?		X				
e. Other:						

Narrative description of minor and potentially significant impacts must be provided.

PROPOSED ACTION:

NO ACTION:

COMMENTS: (1) Project will involve digging a moat, creating a mound in the containment area, and excavating for a 12-foot concrete fence surrounding that area. Soil compaction will occur beneath buildings, and under the parking area and access road. See attached Memorandum of Agreement.

PHYSICAL ENVIRONMENT

2. <u>AIR</u>	POTENTIAL IMPACT				CAN IMPACT BE MITIGATED	COMMENT INDEX
	UNKNOWN	NONE	MINOR	SIGNIFICANT		
Will the proposed action result in:						
a. Emission of air pollutants or deterioration of ambient air quality?		X				
b. Creation of objectionable odors?			X			See (2)
c. Alteration of air movement, moisture, or temperature patterns or any change in climate, either locally or regionally?		X				
d. Adverse effects on vegetation, including crops, due to increased emissions of pollutants?		X				
e. Other:						

Narrative description of minor and potentially significant impacts must be provided.

PROPOSED ACTION:

NO ACTION:

COMMENTS: (2) There is a minor potential for the creation of objectionable odors due to the buildup of excrement and uneaten food. This potential will be mitigated due to the agreement by the applicant to clean up excrement and uneaten food and removal to a lawful disposal area. See attached Memorandum of Agreement.

PHYSICAL ENVIRONMENT

3. <u>WATER</u>	POTENTIAL IMPACT				CAN IMPACT BE MITIGATED	COMMENT INDEX
	UNKNOWN	NONE	MINOR	SIGNIFICANT		
Will the proposed action result in:						
a. Discharge into surface water or any alteration of surface water quality including but not limited to temperature, dissolved oxygen or turbidity?		X				
b. Changes in drainage patterns or the rate and amount of surface runoff?		X				
c. Alteration of the course or magnitude of flood water or other flows?		X				
d. Changes in the amount of surface water in any water body or creation of a new water body?		X				
e. Exposure of people or property to water related hazards such as flooding?		X				
f. Changes in the quality of groundwater?		X				
g. Changes in the quantity of groundwater?		X				
h. Increase in risk of contamination of surface or groundwater?			X			See (3)
i. Violation of the Montana non-degradation statute?		X				
j. Effects on any existing water right or reservation?		X				
k. Effects on other water users as a result of any alteration in surface or groundwater quality?		X				
l. Effects on other water users as a result of any alteration in surface or groundwater quantity?		X				
m. Other:						

Narrative description of minor and potentially significant impacts must be provided.

PROPOSED ACTION:

NO ACTION:

COMMENTS: (3) There is a minor potential for impact on contamination of surface or ground water. This impact would be extremely localized due to the buried cement fence and the applicant's agreement to clean up uneaten food and bear waste. The pond will not have any runoff.

PHYSICAL ENVIRONMENT

4. <u>VEGETATION</u>	POTENTIAL IMPACT				CAN IMPACT BE MITIGATED	COMMENT INDEX
	UNKNOWN	NONE	MINOR	SIGNIFICANT		
Will the proposed action result in:						
a. Changes in the diversity, productivity or abundance of plant species?			X			See (4)
b. Alteration of a plant community?			X			See (4)
c. Adverse effects on any unique, rare, threatened, or endangered species?		X				
d. Reduction in acreage or productivity of any agricultural land?			X			See (5)
e. Establishment or spread of noxious weeds?	X					
f. Other:						

Narrative description of minor and potentially significant impacts must be provided.

PROPOSED ACTION:

NO ACTION:

COMMENTS: (4) Plants in the bear enclosure and under the parking lot will be eliminated.
(5) Approximately three acres of grass hay will be lost.

PHYSICAL ENVIRONMENT

5.FISH / WILDLIFE	POTENTIAL IMPACT				CAN IMPACT BE MITIGATED	COMMENT INDEX
	UNKNOWN	NONE	MINOR	SIGNIFICANT		
Will the proposed action result in:						
a. Deterioration of critical fish or wildlife habitat?		X				
b. Changes in the diversity or abundance of game species?		X				
c. Changes in the diversity or abundance of nongame species?		X				
d. Introduction of new species into an area?			X			See (6)
e. Creation of a barrier to the migration or movement of animals?		X				
f. Adverse effects on any unique, rare, threatened, or endangered species?			X			See (7)
g. Increase in conditions that stress wildlife populations or limit abundance (including harassment, legal or illegal harvest or other human activity)?		X				
h. Other:						

Narrative description of minor and potentially significant impacts must be provided.

PROPOSED ACTION:

NO ACTION:

COMMENTS: (6) Three brown bears will be introduced to the area. They will be confined.
 (7) If wild grizzly bears are attracted to this location, they could be hit on the interstate highway. Captive bears will be neutered, area will be kept clean, and double fencing will prevent close contact. There have been no sightings of grizzly bears in the Bozeman Pass vicinity in the last 15 years. Since grizzlies have been known to wander long distances from their habitual home ranges, it is possible that one might pass through this area. Black bears are relatively common in the area. In the past ten years, approximately five or six nuisance black bears have been trapped and removed and numerous bears have been seen. See attached Memorandum of Agreement.

HUMAN ENVIRONMENT

<u>6.NOISE EFFECTS</u>	POTENTIAL IMPACT				CAN IMPACT BE MITIGATED	COMMENT INDEX
	UNKNOWN	NONE	MINOR	SIGNIFICANT		
Will the proposed action result in:						
a. Increases in existing noise levels?		X				
b. Exposure of people to severe or nuisance noise levels?		X				
c. Other:						

Narrative description of minor and potentially significant impacts must be provided.

PROPOSED ACTION:

NO ACTION:

COMMENTS:

HUMAN ENVIRONMENT

7. <u>LAND USE</u>	POTENTIAL IMPACT				CAN IMPACT BE MITIGATED	COMMENT INDEX
	UNKNOWN	NONE	MINOR	SIGNIFICANT		
Will the proposed action result in:						
a. Alteration of or interference with the productivity or profitability of the existing land use of an area?			X			See (8)
b. Conflict with a designated natural area or area of unusual scientific or educational importance?		X				
c. Conflict with any existing land use whose presence would constrain or potentially prohibit the proposed action?		X				
d. Conflict with any existing land use that would be adversely affected by the proposed action?			X			See (8)
e. Adverse effects on or relocation of residences?			X			See (8)
f. Other:						

Narrative description of minor and potentially significant impacts must be provided.

PROPOSED ACTION:

NO ACTION:

COMMENTS: (8) The area surrounding this site is a mixture of open agricultural rangeland and residential. The area is currently seeing a slow transition from rangeland to residential. This proposal may discourage people from purchasing property near the facility. There is one currently inhabited home which abuts this facility. Other homes are further away or the view of the facility is blocked by the adjoining railroad grade. The effect of this project on property values is unknown and may depend on the intent or personal values of the prospective purchasers. This type of development is not prohibited due to local or county ordinances.

There will be increased traffic to this location. The entrance is, however, right at the off ramp of the interstate. This should alleviate any additional congestion on the local roads. All parking shall be in the private parking lot inside the exterior fence.

HUMAN ENVIRONMENT

8.RISK / HEALTH HAZARDS	POTENTIAL IMPACT				CAN IMPACT BE MITIGATED	COMMENT INDEX
	UNKNOWN	NONE	MINOR	SIGNIFICANT		
Will the proposed action result in:						
a. Risk of dispersal of hazardous substances (including, but not limited to chemicals, pathogens, or radiation) in the event of an accident or other forms of disruption?		X				
b. Creation of any hazard or potential hazard to domestic livestock?			X			See (9)
c. Creation of any hazard or potential hazard to human health?			X			See (9)
d. Other:						

Narrative description of minor and potentially significant impacts must be provided.

PROPOSED ACTION:

NO ACTION:

COMMENTS: (9) Escaped bears could present a hazard to livestock or humans. Numerous agreements made with the applicant regarding the confinement of the bears will mitigate this potential minor impact. See attached Memorandum of Agreement.
Currently there are numerous black bears in the area that coexist with people and livestock. Only an occasional problem with poultry has occurred.

HUMAN ENVIRONMENT

9. <u>COMMUNITY IMPACT</u>	POTENTIAL IMPACT				CAN IMPACT BE MITIGATED	COMMENT INDEX
	UNKNOWN	NONE	MINOR	SIGNIFICANT		
Will the proposed action result in:						
a. Alteration of the location, distribution, density, or growth rate of the human population of an area?		X				
b. Alteration of the social structure of a community?		X				
c. Alteration of the level or distribution of employment or community or personal income?		X				
d. Changes in industrial or commercial activity?			X			See (10)
e. Changes in historic or traditional recreational use of an area?		X				
f. Changes in existing public benefits provided by affected wildlife populations and wildlife habitats (educational, cultural or historic)?		X				
g. Increased traffic hazards or effects on existing transportation facilities or patterns of movement of people and goods?			X			See (11)
h. Other:						

Narrative description of minor and potentially significant impacts must be provided.

PROPOSED ACTION:

NO ACTION:

COMMENTS: (10) This is a new commercial activity. It is the only commercial property in the area.
 (11) There is a possibility of highway accidents if passersby on I-90 try to stop or slow down to see the bears. The 12-foot concrete fence and a requirement to plant trees along the front exposure should minimize this situation. Traffic will come off of I-90 and go immediately into the facility parking area. This is a rural access exit from the interstate, which receives very little traffic. The frontage road adjoining the facility is also lightly used. See attached Memorandum of Agreement.

HUMAN ENVIRONMENT

10. <u>PUBLIC SERVICES/TAXES/UTILITIES</u>	POTENTIAL IMPACT				CAN IMPACT BE MITIGATED	COMMENT INDEX
	UNKNOWN	NONE	MINOR	SIGNIFICANT		
Will the proposed action result in:						
a. A need for new or altered government services (specifically an increased regulatory role for FWP and Dept. of Livestock)?			X			See (12)
b. A change in the local or state tax base and revenues?			X			See (13)
c. A need for new facilities or substantial alterations of any of the following utilities: electric power, natural gas, other fuel supply or distribution systems, or communications?			X			See (14)
d. Other:						

Narrative description of minor and potentially significant impacts must be provided.

PROPOSED ACTION:

NO ACTION:

COMMENTS: (12) Some inspections will be required.
 (13) This for-profit business will pay the appropriate taxes.
 (14) This business will need the usual utilities (electricity, water, etc.).

HUMAN ENVIRONMENT

11. <u>AESTHETICS/RECREATION</u>	POTENTIAL IMPACT				CAN IMPACT BE MITIGATED	COMMENT INDEX
	UNKNOWN	NONE	MINOR	SIGNIFICANT		
Will the proposed action result in:						
a. Alteration of any scenic vista or creation of an aesthetically offensive site or effect that is open to public view?			X			See (15)
b. Alteration of the aesthetic character of a community or neighborhood?			X			See (15)
c. Alteration of the quality or quantity of recreational/tourism opportunities and settings?			X			See (15)
d. Other:						

Narrative description of minor and potentially significant impacts must be provided.

PROPOSED ACTION:

NO ACTION:

COMMENTS: (15) The dominant feature in the project will be the 12-foot concrete fence. The average person would probably not see this as aesthetically pleasing. The required outside border of trees will somewhat camouflage the fence. This facility will, in itself, represent an increased tourist opportunity in the area. The applicant is also contemplating leasing billboard space for four to six signs along I-90 to advertise the zoo. See attached Memorandum of Agreement.

HUMAN ENVIRONMENT

12. <u>CULTURAL/HISTORICAL RESOURCES</u>	POTENTIAL IMPACT				CAN IMPACT BE MITIGATED	COMMENT INDEX
	UNKNOWN	NONE	MINOR	SIGNIFICANT		
Will the proposed action result in:						
a. Destruction or alteration of any site, structure or object of prehistoric, historic, or paleontological importance?		X				
b. Physical change that would affect unique cultural values?		X				
c. Effects on existing religious or sacred uses of a site or area?		X				
d. Other:						

Narrative description of minor and potentially significant impacts must be provided.

PROPOSED ACTION:

NO ACTION:

COMMENTS:

HUMAN ENVIRONMENT

13. <u>SUMMARY EVALUATION OF SIGNIFICANCE</u>	POTENTIAL IMPACT				CAN IMPACT BE MITIGATED	COMMENT INDEX
	UNKNOWN	NONE	MINOR	SIGNIFICANT		
Will the proposed action, considered as a whole:						
a. Have impacts that are individually limited, but cumulatively considerable? (A project or program may result in impacts on two or more separate resources which create a significant effect when considered together or in total.)		X				
b. Involve potential risks or adverse effects which are uncertain but extremely hazardous if they were to occur?		X				
c. Potentially conflict with the substantive requirements or any local, state, or federal law, regulation, standard or formal plan?		X				
d. Establish a precedent or likelihood that future actions with significant environmental impacts will be proposed?		X				
e. Generate substantial debate or controversy about the nature of the impacts that would be created?			X			See (16)
e. Other:						

Narrative description of minor and potentially significant impacts must be provided.

PROPOSED ACTION:

NO ACTION:

COMMENTS: (16) We expect some public opposition to this proposal. We expect to hear from people who are opposed to the caging and displaying of wild animals; people who are concerned about property values and the appearance of the zoo; people who are concerned about the welfare of the bears; and, people who are concerned about public safety.
It should be noted that Montana law M.C.A. 87-4-801 through 87-4-807 does authorize people to construct roadside zoos. The authority of MFWP, therefore, is limited to ensuring that these facilities comply with legal requirements.

PART II. ENVIRONMENTAL REVIEW (Continued)

2. Summary evaluation of significance criteria.

a. Does the proposed action have impacts that are individually minor, but cumulatively considerable? (A project may result in impacts on two or more separate resources which create a significant effect when considered together or in total.)

No.

b. Does the proposed action involve potential risks or adverse effects which are uncertain but extremely hazardous if they were to occur?

There is the possibility of a bear escaping and injuring someone. The facility design and construction agreed to by the applicant, however, reduces that possibility below the level of significance. There is the possibility of a bear injuring a handler. There will, therefore, always be an employee on the premises properly trained in the handling of bears. See attached Memorandum of Agreement.

3. Description and analysis of reasonable alternatives (including the no action alternative) to the proposed action whenever alternatives are reasonably available and prudent to consider and a discussion of how the alternatives would be implemented:

- a. No Action Alternative: This would consist of refusing to issue the permit. If that were to occur, no development would take place.
- b. Issue the permit with no Memorandum of Agreement with the applicant.
- c. Issue the permit coupled with the attached Memorandum of Agreement between the applicant and MFWP that is designed to reduce potential impacts to below the level of significance.

4. Evaluation and listing of mitigation, stipulation, or other control measures enforceable by the agency or another government agency:

See attached Memorandum of Agreement.

PART III. NARRATIVE EVALUATION AND COMMENT

The review of this proposal has identified several areas that have the potential for minor environmental impacts. These issues are addressed in the attached memorandum of agreement a document in which the applicant agrees to certain terms as a condition of receiving the zoo and menagerie permit. Agreement to these terms reduces any identified impacts to below a level of significance and allows for measures to be taken should the applicant not comply with issues addressed in the agreement.

PART IV. EA CONCLUSION

1. Based on the significance criteria evaluated in this EA, is an EIS required?

No.

If an EIS is not required, explain why the EA is the appropriate level of analysis for this proposed action:

No significant impacts were identified.

2. Describe the level of public involvement for this project if any and, given the complexity and the seriousness of the environmental issues associated with the proposed action, is the level of public involvement appropriate under the circumstances? (At a minimum, all EAs must be made available to the public through the State Bulletin Board System.)

Public hearing January 13, 2003 at 7:00 p.m.,
FWP office, 1400 South 19th Avenue, Bozeman, MT 59718;
written comments to be taken.

3. Duration of comment period if any:

30 days: December 20, 2002 through January 20, 2003

4. Name, title, address, and phone number of the Person(s) Responsible for Preparing the EA:

Jim Heck, Fish and Game Warden
Harry Whitney, Wildlife Research Specialist
Montana Fish, Wildlife & Parks
1400 South 19th Avenue
Bozeman MT 59718
406.994.4042

Written comments may be sent to this address or emailed: jheck@montana.edu.

[illegible][illegible]

PROPOSED ACTION

This proposal is for the construction and operation of a roadside zoo containing three brown bears (see Attachment 6 for general layout). The facility perimeter fence shall consist of a ten-foot chain link perimeter fence topped with electric wire. This fence shall surround the property (see Attachment 3).

Inside this fence will be the primary containment fence for the bears. This fence will be made of concrete and will be 12 feet high. It will have an electric wire at the top of the fence. The fence will extend a minimum of two feet, six inches below the ground (see Attachment 5).

A portion of this fence will consist of a "moat" to facilitate viewing. The moat will be a concrete trench 12 feet across and 12 feet deep. The walls will be vertical. There will be electric wires at the top of both the inside and the outside walls (see Attachment 4). A 3½-foot barrier will be placed outside the moat to keep viewers back from the moat.

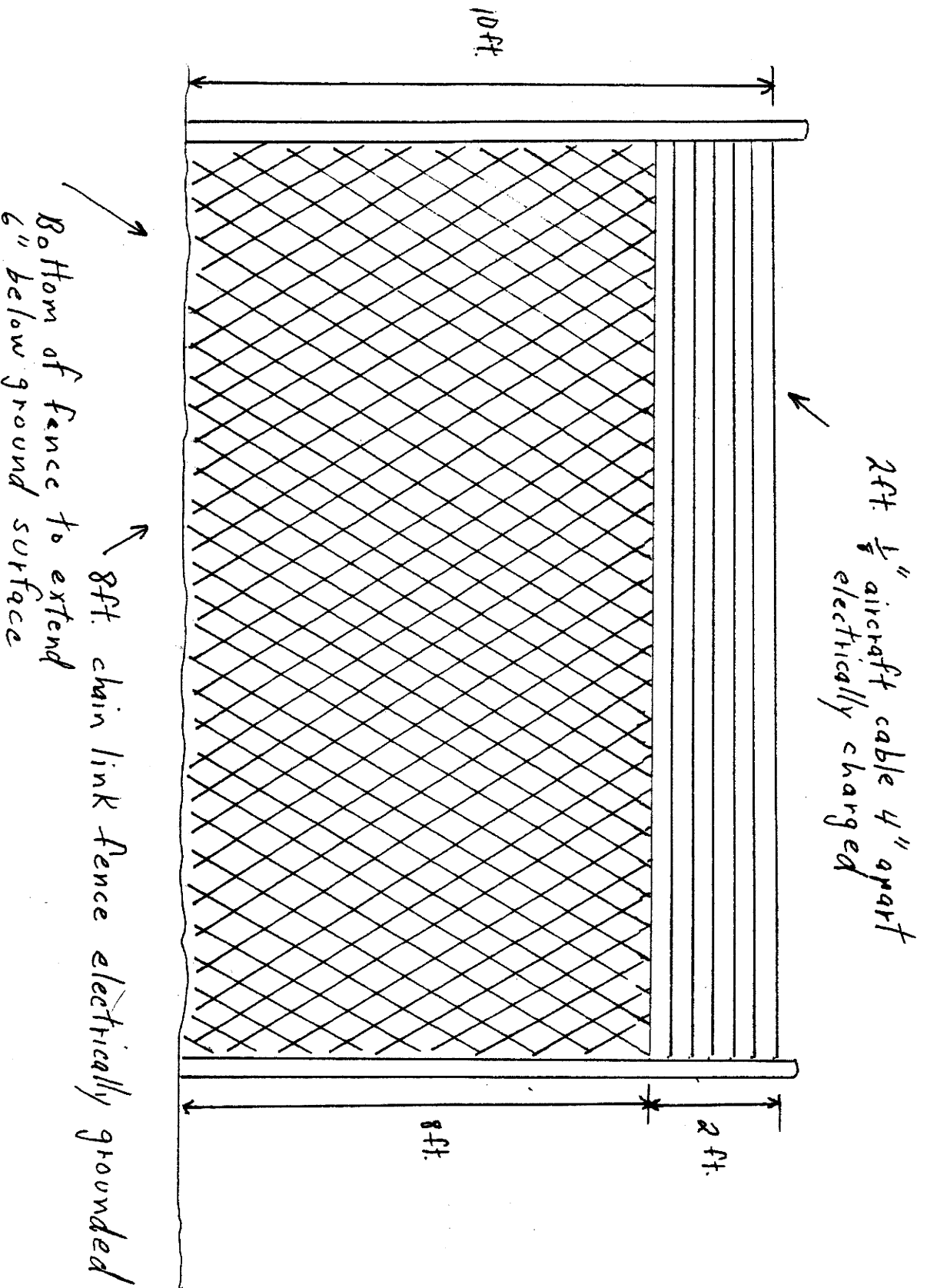
A building will be constructed to house the bears and provide a working area for food preparation and veterinary care. It also will serve as quarters for the full-time caretaker.

There will be a visitor center where customers can receive bear information and view the bears through a glass window.

For a diagram of the general layout, see Attachment 6.

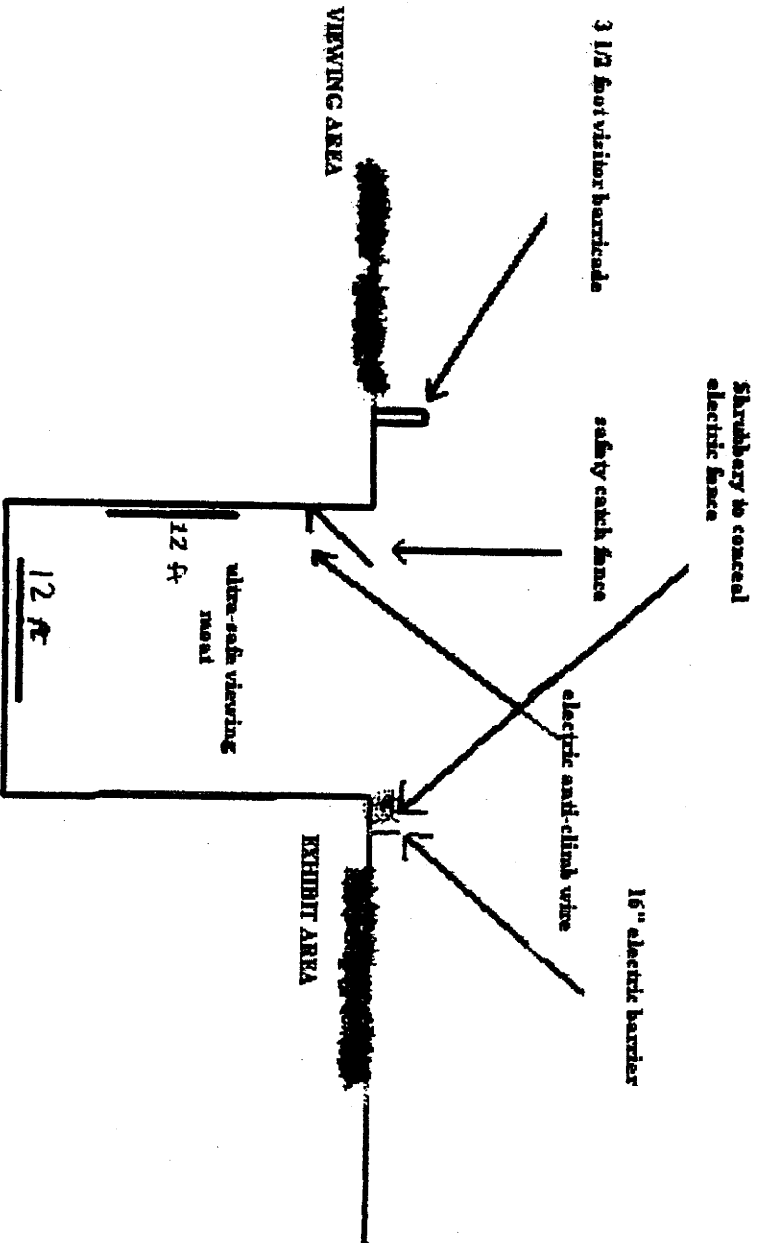
Exterior Fence

Attachment 3



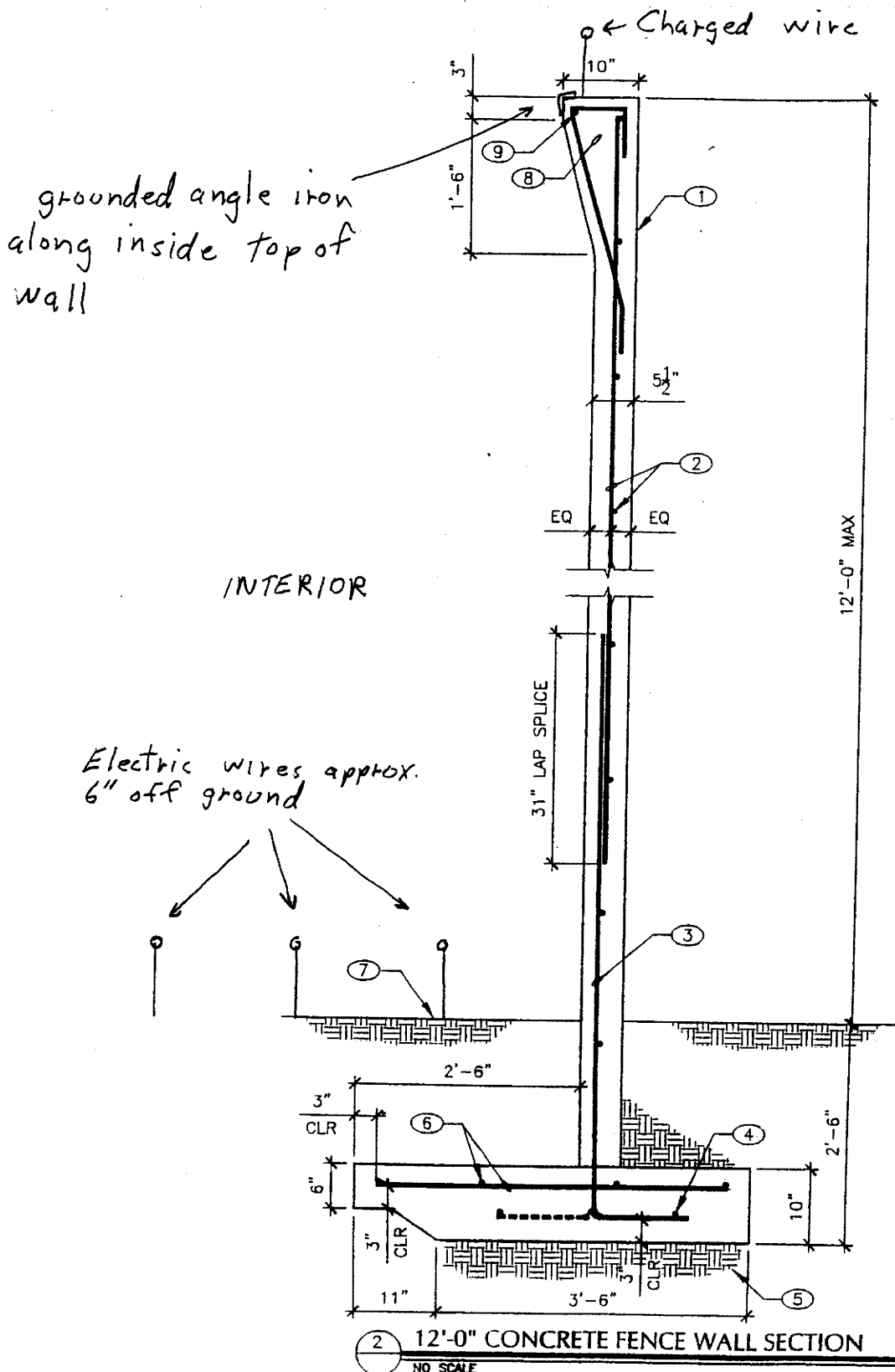
MOAT

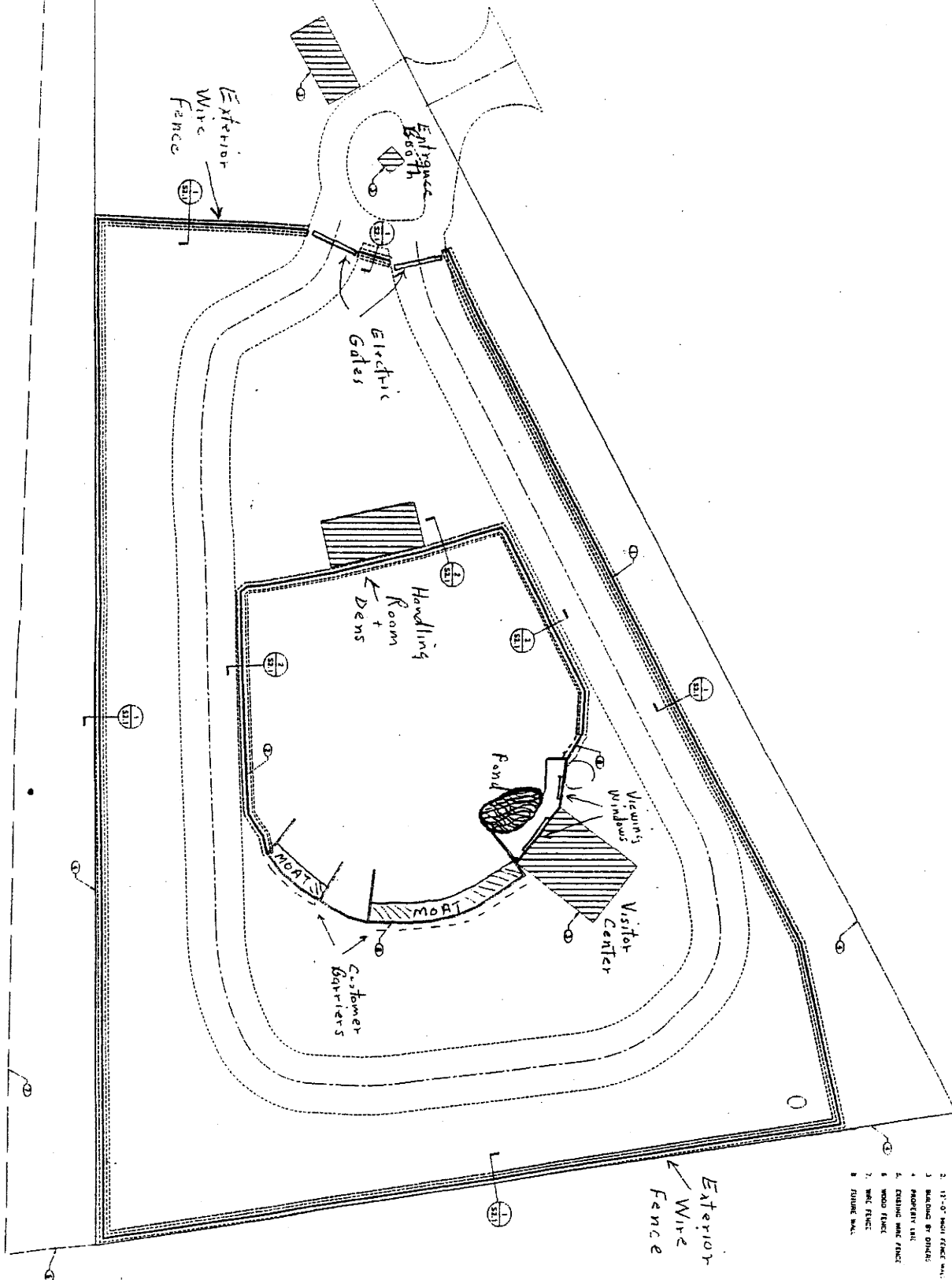
Attachment 4



KEYNOTES:

1. ARCH FINISH
2. #4 AT 18" O.C. EACH WAY
3. #4 AT 11" O.C. 80"
4. (2)#4 CONT 12"
5. SOIL TO BE COMPACTED TO 90% DRY DENSITY
6. #4 AT 18" O.C. EACH WAY
7. FINAL GRADE
8. #3 TIE AT 18" O.C.
9. #4 CONT





FENCE WALL

[illegible]

MEMORANDUM OF AGREEMENT

This agreement is entered into by the Montana Fish, Wildlife & Parks (hereinafter known as "MFWP") and Montana Wildlife Education Inc., represented by Casey Anderson (hereinafter known as "Applicant"). The following stipulations are conditions to receiving the Zoo and Menagerie Permit.

- 1 Applicant shall keep a maximum of three brown bears.
- 2 Applicant will obtain written authorization from MFWP before introducing any bear.
- 3 Applicant agrees to construct an outside perimeter fence incorporating the following minimum design specifications:
 - a) ten-foot high chain link fence, with the chain link beginning six inches below ground and topped with electric wire. It shall enclose all the facilities that contain live bears; and,
 - b) this perimeter "property line" fence shall include enough gates to allow any wild bear that breaches the "property line" fence to be safely driven out of the service yard without being handled.
- 4 Applicant shall construct an inner wall of concrete 12 feet tall, which shall include an inward slope to prevent climbing. An electric wire shall be installed near the top of the fence. The fence shall extend a minimum of two feet, six inches below the ground. The fence shall be constructed in accordance with the engineer's plans as shown in Attachment 5. The concrete footing for the wall shall extend 30" inside the wall to act as a dig-out curtain.
- 5 The viewing portion of the inner fence shall consist of a concrete moat 12 feet wide and 12 feet deep, with vertical sidewalls. An electric wire shall run along the interior top edge of the moat, at a height of 16 inches (additional wires may be required if needed to prevent bear encroachment to the edge of the moat). A barrier shall be placed on the viewing side of the moat to keep viewers back from the moat (see Attachments 4 and 6).

- 6 During the winter, no bears shall be permitted in the outside viewing area unless the snow and ice have been removed from the inside of the interior fence for a distance of at least ten feet. Snow must also be cleared from the moat prior to the release of the bears into the pen.
- 7 A working generator shall be installed and maintained, which automatically activates during a power failure. A power failure alarm shall also be installed.
- 8 All customer parking shall be in the enclosed parking lot. No on-street parking shall be permitted.
- 9 Applicant shall provide proper, accurate, and biologically correct education and interpretation materials pertaining to brown bears, their habitats, and their natural roles in the Yellowstone ecosystem. Accurate information will also be provided to educate patrons as to the safest and most responsible manner of viewing and respecting wild bears. These efforts will be coordinated with MFWP, Yellowstone Ecosystem Subcommittee of the Interagency Bear Committee, and/or their Information and Education Subcommittee, and other professional educators and wildlife biologists.
- 10 Applicant shall provide security, appropriate diet, and competent management and veterinary staff to ensure proper husbandry and medical care of brown bears, using the American Association of Zoological Parks and Aquariums' accreditation and minimum care standards as guidelines. Applicant shall consult with the Department about the best methods for treating or destroying sick or injured bears.
- 11 Applicant shall ensure that odors and other aspects that have the potential to attract wild bears are minimized or eliminated. This includes:
 - a) housing all captive bears in enclosed den buildings during the night;
 - b) conducting the primary feeding of all captive bears in enclosed den buildings;
 - c) ensuring proper sanitation in the den buildings;
 - d) keeping outdoor bear enclosure and pond clean of feces, urine concentrations, and aromatic food scraps;
 - e) keeping food and garbage unavailable to wild bears; and,
 - f) spaying/neutering all captive female bears older than two years of age upon arrival, before they are allowed out-of-doors.

- 12 Applicant shall prevent the breeding of captive grizzly bears. Captive male bears shall be sterilized upon arrival, before they are introduced into the general captive population. Female bears will also be sterilized, as stated above.
- 13 Applicant shall undertake the best efforts to minimize conflicts with wild bears, with respect to the care of captive bears and the design, operation, and maintenance of the facility in a manner described by MFWP, so as not to diminish the success of ongoing grizzly bear recovery programs. If, as a result of problems that occur that are not resolved to the satisfaction of MFWP, it is determined that the facility is responsible for attracting wild bears, and as a consequence, a wild bear becomes a "nuisance bear" that must be removed from the wild, the facility agrees to take whatever measures are deemed necessary to rectify those problems, as required by MFWP. The facility acknowledges that the same solution may become necessary if any captive brown bears escape and become "nuisance bears" as a result of unresolved problems at the facility. The facility further acknowledges that if noncompliance with the conditions in this agreement results in problems that are not resolved to the satisfaction of MFWP, it may be necessary for MFWP to revoke applicant's roadside menagerie permit and to require removal of the bears held within the facility.
- 14 Applicant shall cooperate with, and reimburse MFWP reasonable and mutually agreed upon costs directly associated with, the agency's capture or destruction of a bear that escapes or a wild bear that enters the facility. A clear contingency plan will be developed by the facility that outlines the specific coordination actions that will occur between the facility and MFWP if such events occur. A contingency plan for such events that meets the approval of MFWP must be developed prior to the facility's receiving authorization to hold grizzly bears.
- 15 Applicant shall abide by all applicable State, Federal, and Canadian laws and requirements pertaining to buying, selling, or transporting grizzly bears.
- 16 Applicant shall permanently and individually mark all captive bears for identification in accordance with Montana State Law [Section 87-1-231, MCA, Title 87].
- 17 Applicant shall assume all financial liabilities and responsibilities for the recapture of, and any damages that may be caused by, any bear that escapes, in accordance with Montana State Law [Section 87-1-233, MCA, Title 87].

- 18 Applicant shall walk the concrete fence and moat each day prior to turning out the bears to check for security, snow accumulation, and possible vandalism.
- 19 Applicant shall immediately report any escape or bear-related injury to any customer or employee.
- 20 The facility agrees to on-site inspections by MFWP on an announced or unannounced basis.
- 21 Applicant shall have a large caliber rifle, pepper spray, and a tranquilizer gun on the premises at all times in case of an emergency.
- 22 The electric gates shall be kept shut at all times except during the entrance or exit of vehicles.
- 23 Glass in the viewing windows shall be a minimum of two-inch laminated glass.
- 24 When customers are viewing the bears, at least one employee shall be present in an area where she or he may observe the customers.
- 25 At points where the concrete wall meets the moats, barriers will be provided to ensure that the bears are unable to maneuver around the wall. Such barriers are subject to MFWP approval.
- 26 A row of trees shall be planted and maintained along the northeast perimeter that faces I-90. They shall be arranged to minimize the visibility of the bears from the highway. The location of the trees shall be subject to MFWP approval.
- 27 The pond shall be lined with an impervious material.
- 28 Each wire at the top of the chain link perimeter fence shall be individually charged.
- 29 The moat will have a drain in the bottom or other means of pumping out accumulated water for cleaning.

- 30 The side of the visitor center which forms a portion of the containment wall shall be constructed of concrete or similar bear-proof material. It shall be 12 feet tall and have an electrical wire running along the interior edge in the same manner as the rest of the fence.
- 31 At any time the facility has bears in site, there shall be a caretaker present trained in the handling of bears and in the use of the firearm, pepper spray, a tranquilizer gun, and other emergency procedures.
- 32 Applicant will purchase and maintain liability insurance as required in A.R.M. 12.6.1308.
- 33 Applicant will, additionally, comply with all laws and rules for operating a roadside zoo and menagerie found in M.C.A. 87-4-801 through 87-4-808 and A.R.M. 12-6-1305 through 12.6.1309.

It is mutually agreed that failure to comply with the terms and conditions of this agreement by any of the parties hereto may result in the termination of this agreement and revocation of authorities issued for the holding of bears at the facility. This agreement may be amended upon written consent of all parties hereto.

Signed,

Attest

Patrick J Flowers
Regional Supervisor
Montana Fish, Wildlife & Parks

Attest

Applicant Representing
Montana Wildlife Education Inc.